

**Dated: June 27, 2016**

**The following is ORDERED:**



A handwritten signature in black ink, reading "Tom R. Cornish".

**TOM R. CORNISH  
UNITED STATES BANKRUPTCY JUDGE**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

In Re:  
Joseph Szymanoski, Deceased

Case No: 16-80242-TRC  
Chapter 7

**ORDER**

The above-referenced case comes before the court for review. A Certificate of Death for the Debtor was filed on June 20, 2016, indicating that Debtor died on April 16, 2016. A show cause hearing is currently scheduled for failure to pay the remaining balance of the filing fee in the amount of \$265.00. A Meeting of Creditors was set May 18, 2016. The Trustee concluded the meeting and has filed a Report of No Distribution. No request has been made that the case should be dismissed.

Fed. R. Bankr. P. 1016 provides that the death or incompetency of a debtor shall not abate a liquidation case under chapter 7. The estate should be administered and concluded "in the same manner, so far as possible, as though the death or incompetency had not occurred." Moreover, the requirement that debtor complete a personal financial management instructional course may be excused if debtor is incapacitated or disabled pursuant to 11 U.S.C. § 109(h)(4). The Court finds that the death of a debtor constitutes "incapacity" for the purposes of § 109(h)(4). *See In re Fogel*,

No. 14-cv-01851, 2015 WL 5032055 (D. Colo. Aug. 25, 2015).

IT IS THEREFORE ORDERED that the remaining filing fee and the requirement for the Debtor to file a Financial Management Certificate is hereby waived.

IT IS FURTHER ORDERED that the show cause hearing scheduled for July 6, 2016 at 9:00 a.m. is hereby stricken.

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